

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed November 29, 2006 (“Office Action”). At the time of the Office Action, Claims 1-16 were pending in the Application. In the Office Action, the Examiner rejects Claims 1-16. Applicant amends Claim 1 to correct typographical errors. Applicant does not admit that any amendments are necessary due to any prior art or any of the Examiner’s rejections. Applicant respectfully requests reconsideration and allowance of all pending claims.

Section 102 Rejections

The Examiner rejects Claims 1, 7-9, 13 and 14 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0175186 A1 to Tabata (“*Tabata*”). Applicant traverses the rejection and respectfully requests reconsideration and allowance of Claims 1, 7-9, 13 and 14.

Applicant respectfully submits that the *Tabata* reference does not qualify as prior art to the present invention under 35 U.S.C. 102(e). In particular, the present invention has an effective U.S. filing date of 3/10/2003 based on the claim of priority to German Application No. 103-11-571.4-35 pursuant to 35 U.S.C. 119. The filing date of the *Tabata* reference is 3/2/2004. Even though *Tabata* purports to have a foreign filing date of 3/3/2003, this foreign priority date cannot be used as the 35 U.S.C. 102(e) reference date. See MPEP 2136.03 (*citing In re Hilmer*). Thus, the foreign priority date of the present invention (3/10/2003) antedates the 102(e) reference date of *Tabata* (3/2/2004). Applicant therefore requests reconsideration and allowance of Claims 1, 7-9, 13 and 14.

Section 103 Rejections

The Examiner rejects Claims 2-6, 10 and 11 under 35 U.S.C. 103(a) as being unpatentable over *Tabata* as applied to claim 1 above, and in view of U.S. Patent No. 5,787,215 issued to Kuhara, et al. (“*Kuhara*”).

The Examiner rejects Claim 12 under 35 U.S.C. 103(a) as being unpatentable over *Tabata* as applied to claim 1 above, and in view of U.S. Patent No. 5,600,486 issued to Gal, et al. (“*Gal*”).

The Examiner rejects Claim 15 under 35 U.S.C. 103(a) as being unpatentable over *Tabata* as applied to claims 1 and 14 above, in view of U.S. Patent Application Publication No. 2003/0007753 to Hurt, et al. ("*Hurt*").

The Examiner rejects Claim 16 under 35 U.S.C. 103(a) as being unpatentable over *Tabata* and *Hurt* as applied to claims 1, 14 and 15 above, and in further view of U.S. Patent No. 5,555,334 issued to Ohnishi, et al. ("*Ohnishi*") and U.S. Patent No. 5,537,504 issued to Cina, et al. ("*Cina*").

Applicant traverses each of these rejections. Each of the combination of references above relies upon *Tabata* as the primary reference. As described above with regard to Claim 1, however, *Tabata* does not qualify as prior art to the present invention. In particular, the foreign priority date of the present invention (3/10/2003) antedates the 102(e) reference date of *Tabata* (3/2/2004). Thus, Applicant respectfully requests reconsideration and allowance of Claims 2-6, 10-12, and 15-16.

CONCLUSION

For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Samir A. Bhavsar, Attorney for Applicant, at the Examiner's convenience at (214) 953-6581.

Applicant believes no fees are due. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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